

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Resolution ALJ 176-3068
Administrative Law Judge Division
August 2, 2001

R E S O L U T I O N

RESOLUTION ALJ 176-3068. Ratification of preliminary determinations of category for proceedings initiated by application. The preliminary determinations are pursuant to Article 2.5, Rules 4, and 6.1 of the Commission's Rules of Practice and Procedure. (See also Rule 63.2(c) regarding notice of assignment.)

The Commission's rules and procedures which implement the requirements of Senate Bill (SB) 960 (Leonard, ch. 96-0856) are, for the most part, found in Article 2.5 of our Rules of Practice and Procedure. The rules and procedures were adopted by the Commission in D.97-11-021, which describes more fully the background to the development of these rules. Rule 4 describes the formal proceedings to which the SB 960 rules (Article 2.5) apply. Rule 6.1 requires the Commission to preliminarily determine a proceeding's category, whether the proceeding requires a hearing, and designate an Assigned Commissioner and Administrative Law Judge. Rule 6.1(a) states that the preliminary determination of category is not appealable but shall be confirmed or changed by Assigned Commissioner's ruling. Unless and until a preliminary determination is changed by such ruling, the preliminary determination of category governs the applicability of the other reforms that SB 960 requires. Rule 63.2 provides for petitioning the Commission to reassign a proceeding to another administrative law judge. Rule 63.2(c) establishes the time for filing such a petition. For purposes of Rule 63.2(c), notice of the assignment is the day the assignments associated with this preliminary categorization document appear in the Daily Calendar following the Commission business meeting.

The Categories

SB 960 makes sweeping changes in many aspects of the Commission's practices in an effort to improve the quality and timeliness of Commission decision making. It creates three categories of proceedings: adjudicatory, ratesetting, and quasi-legislative. The applicability of many of the changes it requires depends upon the category assigned to

the proceeding. For example, the ex parte rules which apply differ if the proceeding is categorized as adjudicatory rather than quasi-legislative. The Legislature defined each of these procedural categories in Section 7 of SB 960. Consistent with these definitions, the rules provide that:

“‘Adjudicatory’ proceedings are: (1) enforcement investigations into possible violations of any provision of statutory law or order or rule of the Commission; and (2) complaints against regulated entities, including those complaints that challenge the accuracy of a bill, but excluding those complaints that challenge the reasonableness of rates or charges, past, present, or future.

“‘Ratesetting’ proceedings are proceedings in which the Commission sets or investigates rates for a specifically named utility (or utilities), or establishes a mechanism that in turn sets the rates for a specifically named utility (or utilities). ‘Ratesetting’ proceedings include complaints that challenge the reasonableness of rates or charges, past, present, or future. For purposes of this Article, other proceedings may be categorized as ratesetting as described in Rule 6.1(c).

“‘Quasi-legislative’ proceedings are proceedings that establish policy or rules (including generic ratemaking policy or rules) affecting a class of regulated entities, including those proceedings in which the Commission investigates rates or practices for an entire regulated industry or class of entities within the industry.” (Rules 5(b), 5(c), and 5(d).)

Mixed or Unclear Category Proceedings

For a proceeding that may fall into more than one category, the rules allow parties to recommend that the Commission pick the most suitable category, or to recommend dividing the subject matter of the proceeding into different phases or one or more new proceedings, each with its own category. The rules provide that a proceeding that does not clearly fit into *any* of SB 960’s defined categories will be conducted under the rules applicable to the ratesetting category. As such a proceeding matures, the Commission may determine that the rules applicable to one of the other categories, or some hybrid of those rules, would be better suited to the proceeding.

As stated in D.97-06-071, ratesetting proceedings typically involve a mix of policymaking and factfinding relating to a particular public utility. Because proceedings that do not clearly fall within the adjudicatory or quasi-legislative categories likewise typically involve a mix of policymaking and factfinding, the ratesetting procedures are, in general, preferable for those proceedings.

Next Steps

As stated above, this preliminary determination of category is not appealable. Once interested parties have had an opportunity to respond to the initiating party's proposed category, the preliminary determination shall be confirmed or changed by Assigned Commissioner's Ruling pursuant to Rule 6(a)(3). This Assigned Commissioner Ruling may be appealed to the full Commission pursuant to Rule 6.4(a). Parties have 10 days after the ruling is mailed to appeal. Responses to the appeal are allowed under Rule 6.4(b), and must be filed and served not later than 15 days after the ruling is mailed. The full Commission will consider the appeal.

Any party, or person or entity declaring an intention to become a party is entitled to petition for reassignment of the proceeding to another Administrative Law Judge, as described in Rule 63.2. Such a petition must be filed no later than 10 days after notice of the assignment. For purposes of Rule 63.2(c), notice of the assignment is the day the assignments associated with this preliminary categorization document appear in the Daily Calendar following the Commission business meeting.

Conclusion

The Commission has reviewed the initial pleading of the utility applicants listed in the attached schedule and has made a preliminary determination of category and need for hearing, consistent with the requirements and definitions of Article 2.5 of its rules.

IT IS ORDERED that each proceeding listed in the attached schedule is preliminarily categorized, and the need for a hearing is noted.

ALJ/hkr

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on August 2, 2001, the following Commissioners voting favorably thereon:

/s/ WESLEY M. FRANKLIN

WESLEY M. FRANKLIN
Executive Director

LORETTA M. LYNCH
President

RICHARD A. BILAS

CARL W. WOOD

GEOFFREY F. BROWN
Commissioners

Commissioner Henry M. Duque being necessarily
absent, did not participate.

PRELIMINARY DETERMINATION SCHEDULE

Resolution ALJ 176-3068 (08/02/01)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A01-07-005 24/7 COMMUNICATIONS, INC., for an Expansion of its Certificate of Public Convenience and Necessity to Operate as a Limited Facilities-Based Carrier within the State of California	Ratesetting	Ratesetting	NO
A01-07-006 PACIFIC GAS AND ELECTRIC COMPANY, (U 39 M), a California corporation, for an Order Under Section 851 of the California Public Utilities Code to Sell and Convey to the City and County of San Francisco a certain parcel of Land located in the City and County of San Francisco	Ratesetting	Ratesetting	NO
A01-07-007 DE SILVA GROUP, L.L.C., PACIFIC GAS AND ELECTRIC COMPANY, (U 39 M), a California corporation, and The De Silva Group, L.L.C., a California Limited Liability Company, for an Order Authorizing the Former to Sell and Convey to the latter a certain Parcel of Land in Contra Costa County Pursuant to Public Utilities Code Section 851	Ratesetting	Ratesetting	NO
A01-07-009 I-LINKS COMMUNICATIONS, INC., (U-5724-C) for a Certificate of Public Convenience and Necessity to Provide Limited Facilities-Based and Resold Local Exchange Service and Limited Facilities-Based Interexchange Services in California	Ratesetting	Ratesetting	NO
A01-07-010 ABDUL-WAHHAB ABDULLAH, dba QUICK SHUTTLE SERVICE, MOHSEN M. AHMED, Abdul-Wahhab Abdullah dba Quick Shuttle Service to Transfer his PSC-11543 Certificate to Mohsen M. Ahmed; and to Establish a Zone of Rate Freedom	Ratesetting	Ratesetting	NO
A01-07-011 ASHIA, KOUSHAN M., dba MONTEREY BAY SUPER SHUTTLE, for Authority to Extend the Areas of Operations of its Passenger Stage Operations from points in Santa Clara and Santa Cruz Counties, and the San Jose, Oakland and San Francisco International Airports, to Include points in districts in the City and County of San Francisco, Solano County, Marin County, Contra Costa County, Alameda County and San Mateo County	Ratesetting	Ratesetting	NO

PRELIMINARY DETERMINATION SCHEDULE

Resolution ALJ 176-3068 (08/02/01)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A01-07-012 KEEN LD, INC., for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013	NDIEC Registration Application	Ratesetting	NO
A01-07-014 CAÑADA WOODS WATER COMPANY, LLC, for a Certificate of Public Convenience and Necessity to Operate a Public Utility Water Service, Sewer Service, and Wastewater Reclamation Service in Monterey; to Acquire from and Operate the Facilities of Monterra Ranch Mutual Water Company and Cañada Woods Treatment Company; and to Establish Rates for Public Utility Water Service, Sewer Service and Reclaimed Water Service	Ratesetting	Ratesetting	YES
A01-07-015 AT&T COMMUNICATIONS OF CALIFORNIA, INC., for Rehearing of Resolution T-16532	*	*	*
A01-07-016 AT&T COMMUNICATIONS OF CALIFORNIA, INC., for Rehearing of Resolution T-16531	*	*	*
A01-07-017 U.S. TELEPHONE HOLDING COMPANY, INC., (U-6214-C) for a Certificate of Public Convenience and Necessity to Offer Resold Local Exchange Services in the State of California	Ratesetting	Ratesetting	NO
A01-07-018 SOUTHERN CALIFORNIA EDISON COMPANY, (U 338 E), for a Certificate of Public Convenience and Necessity and Order Concerning Public Utilities Code Section 851 for the High Desert 230 kV Transmission Line	Ratesetting	Ratesetting	YES
A01-07-020 HUU NGUYEN, PHUC, dba CALIFORNIA EXPRESS XE DO CALI, to operate an on-call, inter-city, Passenger Stage Baggage Express Service between points in Orange, Los Angeles and Santa Clara Counties, as more fully described herein, pursuant to Section 1031 et seq., California Public Utilities Code; and to Establish a Zone of Rate Freedom under Section 454.2 et seq., of said Public Utilities Code	Ratesetting	Ratesetting	NO

*Application for Rehearing of Resolution is assigned to Legal Division. Categorization/Need for Hearing will be addressed as necessary if the Commission subsequently grants rehearing.

PRELIMINARY DETERMINATION SCHEDULE

Resolution ALJ 176-3068 (08/02/01)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A01-07-021 CRG INTERNATIONAL, INC., ONESTAR COMMUNICATIONS, LLC, ONESTAR LONG DISTANCE, INC., for Approval of Transfer of Assets, Certificates and Control	Ratesetting	Ratesetting	NO
A01-07-024 SOUTHERN CALIFORNIA EDISON COMPANY, (U 338 E), for Confirmation of the Re-Appointment of Daniel P. Garcia to the Committees of its nuclear decommissioning trust fund	Ratesetting	Ratesetting	NO
A01-07-025 NTERA, INC., for a Certificate of Public Convenience and Necessity to Provide Resold and Limited Facilities-Based Local Exchange Telecommunications Services within California	Ratesetting	Ratesetting	NO
A01-07-026 TELECENTS COMMUNICATIONS, INC., for a Certificate of Public Convenience and Necessity to Provide Resold Local Exchange Telecommunications Services within California	Ratesetting	Ratesetting	NO
A01-07-028 SMITH, DAVID, dba SHUTTLE PRO/SHUTTLE PRO, INC., for Authority for David Smith to Transfer his Passenger Stage Corporation certificate No. 11820 to Shuttle Pro, Inc. and to expand the existing PSC certificate to include Contra Costa, San Joaquin, Solano, Sonoma, Santa Cruz and Monterey Counties; and ZORF Authorization	Ratesetting	Ratesetting	NO
A01-07-029 ELLWOOD PIPELINE, INC., MOBILE PACIFIC PIPELINE COMPANY, for authority to sell interests in utility property pursuant to the provisions of Section 851 of the Public Utilities Code of the State of California	Ratesetting	Ratesetting	NO
A01-07-030 MIKO TELEPHONE COMMUNICATIONS, INC., for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013	NDIEC Registration Application	Ratesetting	NO

PRELIMINARY DETERMINATION SCHEDULE

Resolution ALJ 176-3068 (08/02/01)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A01-07-031 PACIFIC GAS AND ELECTRIC COMPANY, for exemption under Section 853 for easements on PG&E land allowing Delta Energy Center, LLC to maintain an electric transition structure for the Delta Project and CPN Pipeline to maintain gas facilities for the Delta Project and the Los Medanos Energy Center Project, or in the alternative for approval of easements under Section 851	Ratesetting	Ratesetting	YES
A01-07-032 NORCOM, INC., dba NORWEGIAN COMMUNICATIONS, for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013	NDIEC Registration Application	Ratesetting	NO
A01-07-033 ONSITE ACCESS LOCAL, LLC, (Emergency); for Authority to Transfer Customers, Abandon Certificates of Public Convenience and Necessity, Terminate Service and Cancel Effective Tariff	Ratesetting	Ratesetting	NO
A01-07-035 SOUTHERN CALIFORNIA EDISON COMPANY, (U 338 E) for Authority to Lease Available Land on the Rio Hondo-Mesa Right of Way to Power Storage El Monte, LLC	Ratesetting	Ratesetting	NO
A01-07-036 SOUTHERN CALIFORNIA EDISON COMPANY, (U 338 E) for Authority to Lease Available Land at Walnut Substation to Power Storage Industry II, LLC	Ratesetting	Ratesetting	NO
A01-07-037 CHAMKAUR GIRI, QADEER A. FARRUKH, dba FAIRFIELD AIRPORTER, Qadeer A. Farrukh, dba Fairfield Airporter to Transfer, and Chamkaur Giri to Acquire, a Certificate of Public Convenience and Necessity to Operate as a Passenger Stage Corporation between points in Solano County, on the one hand, and the San Francisco, Oakland, San Jose and Sacramento International Airports, on the other hand	Ratesetting	Ratesetting	NO
A01-07-038 INTELLIGENT SWITCHING AND SOFTWARE, LLC, for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013	NDIEC Registration Application	Ratesetting	NO

**PRELIMINARY DETERMINATION
SCHEDULE**

Resolution ALJ 176-3068 (08/02/01)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A01-07-039 BURLINGTON NORTHERN SANTA FE RAILWAY CO., for an order authorizing construction to widen the existing grade separated railroad bridge over Fresno Avenue in the City of Stockton, County of San Joaquin, Existing California Public Utilities Commission Crossing No. 2-1122.60B, D.O.T. No. 029633-A	Ratesetting	Ratesetting	NO